

Appl. No. 10/667,627

Attorney Docket No. 10541-1869

## II. Remarks

Reconsideration and re-examination of this application in view of the above amendments and the following remarks is herein respectfully requested.

After entering this amendment, claims 1, 3, 5-6, 9-11, 13, and 14 remain pending.

### *Claim Rejections - 35 U.S.C. § 112*

Claims 3, 4, 6 and 13 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite on the basis that the claims depend on previously canceled claims. Claims 3 and 6 have been amended to correct their dependencies and depend on claim 1. Claim 4 has been canceled. Similarly, claim 13 has been amended to depend on claim 10. Accordingly, it is believed that this rejection is now moot and should be withdrawn.

### *Further Clarifications*

Prior to discussing the cited references, it is believed that a brief discussion on the current form of the independent claims of this application is warranted. The original independent claim of this application has been amended to clarify, more particularly to point out and distinctly claim that which applicant regards as the subject matter of the present invention. Specifically, claim 1 now recites "opposing pairs" of fins extending from the inner wall, said fins being spaced apart by gaps and said gaps being staggered across the tube wherein each gap is offset relative to an adjacent gap. Further, claim 10 has been amended to also claim "opposing pairs" of fins extending from the inner wall . . . said fins being

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spaced apart by gaps "staggered" across the tube wherein each gap is "offset relative to an adjacent gap."

*Claim Rejections - 35 U.S.C. § 102(e)*

Claims 1, 9, 10, and 11 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 2003/0209344, to Fang et al. ("Fang"). Applicant respectfully traverses these rejections.

As noted by the examiner, Fang discloses an automotive heat exchanger. More specifically, it discloses a heat exchanger including an oil cooling section, first and second manifolds, and a plurality of tubes defining an oil flow passage. *Fang*, para. 31 and 40 and Fig. 1. The tubes in Fang are extruded metal with an internal configuration that may include minor structures, such as grooves, ridges or bosses (*id.* at para. 49), not fins as claimed. Referring to independent claims 1 and 10, it is submitted that Fang fails to disclose a plurality of metal tubes with *opposing fins* extending from an inner wall into the oil flow passage, said fins spaced apart by gaps, the gaps being staggered across the tube wherein each gap is *offset relative to an adjacent gap*. Accordingly, the rejections based thereon should be withdrawn.

*Claim Rejections - 35 U.S.C. § 103(a)*

Claims 5 and 14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 2003/0209344, to Fang et al. ("Fang") in view of U.S. Patent No. 6,604,735 to McCollough et al. ("McCollough").



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The comments presented above regarding claims 1 and 10 are equally applicable to the present rejection in that Fang fails to disclose every element claimed in the present invention and McCollough fails to cure the deficiencies of Fang. Therefore, it must be concluded that Fang in view of McCollough cannot render the claims of these dependent claims as obvious. The rejection under § 103(a) should accordingly be withdrawn.

Claims 7, 8, 15, and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fang in view of U.S. Patent No. 6,213,158 to Rhodes ("Rhodes"). Since these claims have been canceled, it is believed this rejection is now moot and should be withdrawn.



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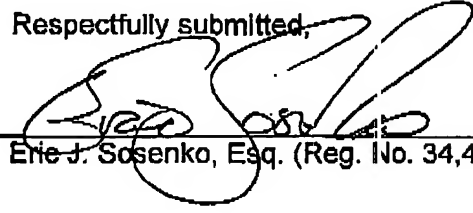
*Conclusion*

In view of the above amendments and remarks, it is respectfully submitted that the present form of the claims are patentably distinguishable over the art of record and that this application is now in condition for allowance. Such action is respectfully requested.

March 9, 2006

Date

Respectfully submitted,

  
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